

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1638

By: Paddack

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 providing short title; creating the Non-Physician  
9 Practitioners Supervision Act; defining terms;  
10 prohibiting performance of certain health care  
11 services under certain circumstances; providing for  
12 certain application to practice; requiring certain  
13 information for application; providing for  
14 supervision of non-physician practitioner in certain  
15 circumstances; requiring appropriate methods of  
16 supervising certain health care services provided by  
17 a non-physician practitioner; requiring the non-  
18 physician practitioner to contact the supervising  
19 physician in certain circumstances within certain  
20 time frame and schedule certain evaluation; providing  
21 for a non-physician practitioner to perform health  
22 care services in certain settings with certain  
23 authorization; requiring non-physician practitioner  
24 to obtain certain Board approval to practice in  
certain care settings; providing for such approval;  
providing requirements for a non-physician  
practitioner to prescribe certain prescriptions;  
authorizing the State Board of Medical Licensure and  
Supervision, with assistance from the Oklahoma Board  
of Nursing, to develop and implement certain rules  
relating to requirements for certain prescriptive  
authority; stating the Board shall have sole  
authority to confer certain licensure for  
prescriptive authority; authorizing the Board to  
establish a Formulary Advisory Council to develop  
certain recommendations for a certain formulary;  
authorizing the Council to develop certain  
recommendations for each category of advanced  
practice nurse practice-specific prescriptive  
standards for certain advanced practice nurses;  
allowing Board to either accept or reject certain

1 recommendations; prohibiting certain amendments  
2 without certain approval; providing for membership,  
3 membership requirements, appointment, term,  
4 succession, vacancies, officers, quorum and duties of  
5 the Formulary Advisory Council; setting date for  
6 implementation of certain formulary; requiring annual  
7 review of certain formulary; providing for certain  
8 revisions; providing for codification; and providing  
9 an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 570.1 of Title 59, unless there  
13 is created a duplication in numbering, reads as follows:

14 This act shall be known and may be cited as the "Non-Physician  
15 Practitioners Supervision Act".

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 570.2 of Title 59, unless there  
18 is created a duplication in numbering, reads as follows:

19 As used in the Non-Physician Practitioners Supervision Act:

20 1. "Application to practice" means a written description that  
21 defines the scope of practice and the terms of supervision of a non-  
22 physician practitioner in a medical practice;

23 2. "Board" means the State Board of Medical Licensure and  
24 Supervision;

3. "Health care services" means services which require training  
in the diagnosis, treatment and prevention of disease, including the

1 use and administration of drugs, and which are performed by a non-  
2 physician practitioner under the supervision and at the direction of  
3 physicians. Such services include, but are not limited to:

- 4 a. initially approaching a patient of any age group in a  
5 patient care setting to elicit a detailed history,  
6 performing a physical examination, delineating  
7 problems and recording the data,
- 8 b. assisting the physician in conducting rounds in acute  
9 and long-term inpatient care settings, developing and  
10 implementing patient management plans, recording  
11 progress notes and assisting in the provision of  
12 continuity of care in other patient care settings,
- 13 c. ordering, performing or interpreting, at least to the  
14 point of recognizing deviations from the norm, common  
15 laboratory, radiological, cardiographic and other  
16 routine diagnostic procedures used to identify  
17 pathophysiologic processes,
- 18 d. ordering or performing routine procedures, such as  
19 injections, immunizations, suturing and wound care,  
20 and managing simple conditions produced by infection,  
21 trauma or other disease processes,
- 22 e. assisting in the management of more complex illness  
23 and injuries, which may include assisting surgeons in  
24 the conduct of operations and taking initiative in

1 performing evaluation and therapeutic procedures in  
2 response to life-threatening situations,

3 f. instructing and counseling patients regarding  
4 compliance with prescribed therapeutic regimens,  
5 normal growth and development, family planning,  
6 emotional problems of daily living and health  
7 maintenance,

8 g. facilitating the referral of patients to the  
9 community's health and social service agencies when  
10 appropriate,

11 h. providing health care services which are delegated by  
12 the supervising physician when the service:

13 (1) is within the non-physician practitioner's skill,

14 (2) forms a component of the physician's scope of  
15 practice, and

16 (3) is provided with supervision, including  
17 authenticating with the signature any form that  
18 may be authenticated by the supervising  
19 physician's signature with prior delegation by  
20 the physician, and

21 i. the administration of anesthesia under the supervision  
22 of a medical doctor, an osteopathic physician, a  
23 podiatric physician or a dentist licensed in this  
24 state;

1       4. "Non-physician practitioner" shall include physician  
2 assistants as defined by paragraph 5 of Section 519.2 of Title 59 of  
3 the Oklahoma Statutes, an advanced registered nurse practitioner as  
4 defined by paragraph 6 of Section 567.3a of Title 59 of the Oklahoma  
5 Statutes, a clinical nurse specialist as defined by paragraph 7 of  
6 Section 567.3a of Title 59 of the Oklahoma Statutes, a nurse mid-  
7 wife as defined by paragraph 8 of Section 567.3a of Title 59 of the  
8 Oklahoma Statutes and a certified registered nurse anesthetist as  
9 defined by paragraph 10 of Section 567.3a of Title 59 of the  
10 Oklahoma Statutes;

11       5. "Patient care setting" means a physician's office, clinic,  
12 hospital, nursing home, extended care facility, patient's home,  
13 ambulatory surgical center or any other setting authorized by the  
14 supervising physician;

15       6. "Remote patient care setting" means an outpatient clinic or  
16 physician's office that qualifies as a Rural Health Clinic, a  
17 Federally Qualified Health Center, a nonprofit community-based  
18 health center, or any other patient care setting approved by the  
19 Board, and that provides service to a medically underserved  
20 population, as defined by the appropriate government agency;

21       7. "Supervising physician" means an individual holding a  
22 license as a physician from the State Board of Medical Licensure and  
23 Supervision or the State Board of Osteopathic Examiners who  
24 supervises non-physician practitioners; and

1 8. "Supervision" means overseeing and accepting the  
2 responsibility for the health care services performed by a non-  
3 physician practitioner.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 570.3 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. No health care services may be performed by a non-physician  
8 practitioner unless a current application to practice, jointly filed  
9 by the supervising physician and non-physician practitioner, is on  
10 file with and approved by the Board. The application shall include  
11 a description of the physician's practice, methods of supervising  
12 and utilizing the non-physician practitioner and names of alternate  
13 supervising physicians who will supervise the non-physician  
14 practitioner in the absence of the primary supervising physician.

15 B. The supervising physician need not be physically present nor  
16 be specifically consulted before each delegated patient or health  
17 care service is performed by a non-physician practitioner, so long  
18 as the supervising physician and non-physician practitioner are or  
19 can be easily in contact with one another by radio, telephone, or  
20 other means of telecommunication. In all patient care settings, the  
21 supervising physician shall provide appropriate methods of  
22 supervising the health care services provided by the non-physician  
23 practitioner including:

- 1 a. being responsible for the formulation or approval of  
2 all orders and protocols, whether standing orders,  
3 direct orders or any other orders or protocols, which  
4 direct the delivery of health care services provided  
5 by a non-physician practitioner, and periodically  
6 reviewing such orders and protocols,  
7 b. regularly reviewing the health care services provided  
8 by the non-physician practitioner and any problems or  
9 complications encountered,  
10 c. being available physically or through direct  
11 telecommunications for consultation, assistance with  
12 medical emergencies or patient referral,  
13 d. being on-site to provide medical care to patients a  
14 minimum of one-half (1/2) day per week, and  
15 e. that it remains clear that the non-physician  
16 practitioner is an agent of the supervising physician,  
17 but in no event shall the supervising physician be an  
18 employee of the non-physician practitioner.

19 C. In patients with newly diagnosed chronic or complex  
20 illnesses, the non-physician practitioner shall contact the  
21 supervising physician within forty-eight (48) hours of the non-  
22 physician practitioner's initial examination or treatment and  
23 schedule the patient for appropriate evaluation by the supervising  
24 physician as directed by the physician.

1 D. A non-physician practitioner may perform health care  
2 services in patient care settings as authorized by a supervising  
3 physician.

4 E. A non-physician practitioner shall obtain approval from the  
5 Board prior to practicing in remote patient care settings. Such  
6 approval requires documented experience in providing a comprehensive  
7 range of primary care services, under the direction of a supervising  
8 physician, for at least one (1) year prior to practicing in such  
9 settings and such other requirement as the Board may require.

10 SECTION 4. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 570.4 of Title 59, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. A non-physician practitioner may prescribe written and oral  
14 prescriptions:

15 1. If licensed to do so by the State Board of Medical Licensure  
16 and Supervision; and

17 2. If acting under the direction of a supervising physician.

18 B. The State Board of Medical Licensure and Supervision, with  
19 assistance from the Oklahoma Board of Nursing, shall develop and  
20 implement rules setting forth the necessary requirements for non-  
21 physician practitioners to obtain a license for prescriptive  
22 authority and other necessary rules to carry out this section. The  
23 State Board of Medical Licensure and Supervision shall have sole  
24

1 authority to confer licensure for prescriptive authority on a non-  
2 physician practitioner.

3 C. 1. The Board shall establish a Formulary Advisory Council  
4 that shall develop and submit to the Board recommendations for an  
5 exclusionary formulary that shall list drugs that shall not be  
6 prescribed by advanced practice nurses recognized to prescribe by  
7 the Oklahoma Board of Nursing. The Formulary Advisory Council shall  
8 also develop and submit to the Board recommendations for practice-  
9 specific prescriptive standards for each category of advanced  
10 practice nurse recognized to prescribe by the Oklahoma Board of  
11 Nursing pursuant to the provisions of the Oklahoma Nursing Practice  
12 Act. The Board shall either accept or reject the recommendations  
13 made by the Council. No amendments to the recommended exclusionary  
14 formulary may be made by the Board without the approval of the  
15 Formulary Advisory Board.

16 2. The Formulary Advisory Council shall be composed of fifteen  
17 (15) members as follows:

18 a. five members, to include a pediatrician, an  
19 obstetrician-gynecological physician, a general  
20 internist, an anesthesiologist, and a family practice  
21 physician; provided that three of such members shall  
22 be appointed by the Oklahoma State Medical  
23 Association, and one shall be appointed by the  
24 Oklahoma Osteopathic Association,

1           b.   four members who are registered pharmacists, appointed  
2                    by the Oklahoma Pharmaceutical Association, one of  
3                    which shall be a hospital-based pharmacist,

4           c.   three members, to include an advanced registered nurse  
5                    practitioner, a clinical nurse specialist, and a  
6                    certified registered nurse anesthetist, all of whom  
7                    shall be appointed by the Oklahoma Board of Nursing,  
8                    and

9           d.   three members who are licensed physician assistants,  
10                   appointed by the Oklahoma Physician Assistant  
11                   Association.

12           3.   All professional members of the Formulary Advisory Council  
13 shall be in active clinical practice, at least fifty percent (50%)  
14 of the time, within their defined area of specialty. The members of  
15 the Council shall serve at the pleasure of the appointing authority  
16 for a term of three (3) years. The terms of the members shall be  
17 staggered. Members of the Council may serve beyond the expiration  
18 of their term of office until a successor is appointed by the  
19 original appointing authority. A vacancy on the Council shall be  
20 filled for the balance of the unexpired term by the original  
21 appointing authority.

22           4.   Members of the Council shall elect a chair and vice chair  
23 from among the membership of the Council. For the transaction of  
24 business, at least seven members, with a minimum of two members

1 present from each of the identified categories of physicians,  
2 pharmacists, physician assistants and advanced practice nurses,  
3 shall constitute a quorum. The Council shall recommend and the  
4 State Board of Medical Licensure and Supervision shall approve and  
5 implement an initial exclusionary formulary on or before February 1,  
6 2009. The Council and the Board shall annually review the approved  
7 exclusionary formulary and shall make any necessary revisions  
8 utilizing the same procedures used to develop the initial  
9 exclusionary formulary.

10 SECTION 5. This act shall become effective November 1, 2008.

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